

SECTION 5.30 OVERTIME AND COMPENSATORY TIME

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OVERTIME [\[11 IAC 53.11\]](#)

Under the Federal Fair Labor Standards Act (FLSA), overtime must be paid to all eligible employees for hours worked in excess of 40 hours* in a work week. It cannot be waived by the employee. For purposes of administration for AFSCME and non-contract classes, hours worked means all hours in pay status.

FLSA overtime-eligible employees (those whose job class has been coded as a "2" in the OT column in the Classification Plan) are entitled to be compensated at a "premium" rate (one and one half hours of pay at the employee's regular hourly wage) for every hour of overtime worked.

FLSA exempt employees (those whose job class has been coded as a "0" in the OT column of the Classification Plan) are not eligible for any type of overtime compensation.

Current collective bargaining agreements allow employees not eligible for overtime under FLSA (those whose job class has been coded as a "1" in the OT column in the Classification Plan) to be compensated at a "straight time" rate (an additional one hour of pay at the employee's regular hourly wage) for every hour of overtime worked. Although some job classes are exempt from FLSA (they are also coded as a "2" in the OT column in the Classification Plan), those classes are receiving premium overtime under the terms of a collective bargaining agreement.

* Law Enforcement Officers and Airport Fire Fighters are covered by a special FLSA provision that establishes overtime worked on the basis of a 28-day, 171-hour, or 212-hour cycle.

Overtime may vary between collective bargaining agreements. For contract-covered employees, check the applicable bargaining agreement for terms/conditions.

COMPENSATORY TIME [\[11 IAC 53.11\(4\) and 53.11\(5\)\]](#)

FLSA allows public employers to pay overtime earned in "compensatory time" (time off instead of cash). For employees covered by the FLSA but not covered by collective bargaining agreements, compensatory time is subject to the following conditions:

- The decision to receive cash or compensatory time must be made by the employee, except the agency can require the overtime be paid in cash.
- The employee may accrue up to 80 hours of compensatory time before it must be paid out to the employee.
- It may be paid to the employee at any time at the agency's discretion, or may be carried over to the next fiscal year.
- It must be paid to the employee when an employee separates, transfers to another agency, or moves to a job class with a different overtime code.

NOTE: Compensatory time conditions vary between collective bargaining agreements. For contract-covered employees, check the applicable bargaining agreement for the terms/conditions.

[Section 5.32](#) is a quick reference guide for Overtime/Compensatory time for AFSCME-covered job classes.